IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 547 of 1994
in
SPECIAL CIVIL APPLICATION No 11356 of 1994

For Approval and Signature:

HON'BLE MR.JUSTICE B.J.SHETHNA
and
HON'BLE MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

AASANDAS HIRANAND BHATIA

Versus

DISTRICT SUPPLIES OFFICER,

Appearance: 1. LETTERS PATENT APPEAL No. 547 of 1994
MR SV RAJU for Appellant No.
MR PR ABICHANDANI AGP for Respondent No. 1-2

CORAM : HON'BLE MR.JUSTICE B.J.SHETHNA
and
HON'BLE MR.JUSTICE M.C.PATEL

Date of decision: 21/07/2004

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE B.J.SHETHNA)

#. The provisional store run by the appellant-petitioner was inspected by the Supply Officer on 18.4.1992 and it was found that he had not maintained the stock register, bill book and other relevant records required to be maintained under Gujarat Essential Articles (Licensing, Control and Stock Declaration) Order, 1981 (for short "1997 Order"). It was also found that present stock and the price list were not displayed at the place of business and the bill books were also not maintained. On inspection, it was found that the quota stored was also more than the permissible limit. Thereupon a show cause notice was issued to the appellant-petitioner and after considering the reply, District Civil Supplies Officer, Ahmedabad by his order dated 24.7.1992 ordered to confiscate 50% of stock valued at Rs.35,328.70.

#. Being aggrieved of this order, the appellant has filed revision application on 2.9.2002 wherein the appellant had accepted his discrepancies and also pleaded ignorance of law. But the defence of the appellant was not accepted by the revisional authority i.e. the Deputy Secretary, Food and Civil Supplies Department, Gujarat State, who passed the order on behalf of the Governor of Gujarat.

#. Being aggrieved by the same, the appellant-petitioner filed petition under Art.226 and 227 of the Constitution of India before this court. However, it is clear from the order of the learned Single Judge (Coram : B.C.Patel, J.) [as His Lordship then was] that his Lordship exercised power only under Art.227 of the Constitution and not under Art.226 of the Constitution of India.

#. In view of this, in our considered opinion, present Letters Patent Appeal would not be maintainable as per the latest judgment of the Division Bench of this Court in case of Ishwarbhai Narottambhai Patel vs. K.H.Trivedi reported in 2003(3) GLR 1878.

#. Even if the appeal was maintainable, then also this court would not have interfered with the order passed by the learned Single Judge in this Letters Patent Appeal in view of the order passed by the authorities below because the appellant-petitioner has himself admitted that there was default on his part in not properly maintaining bill book, register etc. Scope of Art.227 of the Constitution is very narrow and limited as held by the Hon'ble Supreme Court in its number of cases. On facts of this case, when the learned Single Judge refused to exercise his

limited jurisdiction in favour of the petitioner under Art.227 of the Constitution, then certainly this court will not interfere with such orders in Letters Patent Appeal even if it was maintainable.

#. Before parting, we must state that civil application for interim orders filed in this appeal was dismissed long back and looking to the items seized, it appears that even otherwise after a lapse of period of more than a decade nothing can be done in the matter.

In view of the above, this appeal fails and dismissed on all counts.

(B.J.Shethna, J.)

(M.C.Patel, J.)

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